

SECOND REGULAR SESSION

HOUSE BILL NO. 2130

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DUGGER.

6395H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 408, RSMo, by adding thereto one new section relating to open-end credit plans, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 408, RSMo, is amended by adding thereto one new section, to be known as section 408.471, to read as follows:

408.471. 1. For the purposes of this section, "open-end credit" means credit extended by a creditor under a plan in which:

(1) The creditor reasonably contemplates repeated transactions;

(2) The creditor may impose a finance charge from time to time on an outstanding unpaid balance; and

(3) The amount of credit that may be extended to the borrower during the term of the plan, up to any limit set by the creditor, is generally made available to the extent that any outstanding balance is repaid.

2. This section shall apply to open-end credit plans by lenders other than banks, trust companies, credit unions, savings banks, and savings and loan companies. Sections 408.500 and 408.505 shall not apply to open-end credit made under this section.

3. Entities making open-end credit under this section may contract for and receive simple interest on the unpaid principal balance at rates agreed to by the parties, in addition to any fees permitted in accordance with section 408.475. Any person, firm, or corporation who receives or imposes a fee or charge in violation of this section shall be guilty of a class A misdemeanor.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **4. When making or negotiating open-end credit, a lender shall consider the**
18 **financial ability of the borrower to reasonably make payments on the open-end credit plan**
19 **in the time and manner specified in the open-end credit plan. All records shall be retained**
20 **at least two years.**

21 **5. Lenders extending credit under open-end credit plans under this section shall**
22 **be subject to the provisions of sections 408.551 to 408.562.**

23 **6. No further or other charge or amount shall be directly or indirectly charged,**
24 **contracted for, or received for interest, service charges, or other fees as an incident to any**
25 **open-end credit plan made by a lender subject to this section except:**

26 **(1) An annual charge in any amount the agreement provides for the privileges made**
27 **available to the consumer borrower under the open-end credit plan;**

28 **(2) A transaction charge or charges in such amount or amounts as the agreement**
29 **may provide for each separate purchase or loan under the open-end credit plan;**

30 **(3) A minimum charge for each scheduled billing period under the open-end credit**
31 **plan during any portion of which there is an outstanding unpaid indebtedness under the**
32 **open-end credit plan;**

33 **(4) A late or delinquency charge as the agreement may provide for any single**
34 **scheduled payment not paid in full by its scheduled due date in an amount not to exceed**
35 **the greater of five percent of the minimum payment due or thirty-five dollars. If the**
36 **contract so provides, a charge for late payment on each twenty-five dollars or less**
37 **scheduled payment not paid in full by its scheduled due date shall not exceed five dollars;**

38 **(5) If there is an unpaid balance in an open-end account on the date the finance**
39 **charge is applied, the creditor may assess a minimum charge;**

40 **(6) If the agreement so provides, charges assessed by any institution for processing**
41 **a returned payment plus a handling fee of not more than twenty-five dollars;**

42 **(7) Any recording fees permitted by section 408.032;**

43 **(8) Reasonable towing costs and expenses of retaking, holding, preparing for sale,**
44 **and selling any personal property in accordance with section 400.9;**

45 **(9) With respect to a secured open-end credit plan, any expense, tax, or charge paid**
46 **to a government agency; and**

47 **(10) Reasonable attorneys' fees, as permitted by section 408.092.**

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